

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, APRIL 28, 2003 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Cook; Council Members: Camp, Friendt, McRoy, Seng, Svoboda, Werner, Joan Ross, City Clerk.

Council Chair asked all present to stand and recite the Pledge of Allegiance and reflect for a moment of silent meditation.

**READING OF THE MINUTES**

FRIENDT Having been appointed to read the minutes of the City Council proceedings of April 21, 2003, reported having done so, found same correct.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

**PUBLIC HEARING**

APPLICATION OF B & B-Q INC. DBA "CHEERLEADERS BAR" FOR A SPECIAL DESIGNATED LIQUOR LICENSE IN AN AREA MEASURING 65' BY 75' AT 5560 SOUTH 48TH STREET ON MAY 18, 2003 FROM 12:00 A.M. TO 8:00 P.M.;

APPLICATION OF B & B-Q INC. DBA "CHEERLEADERS BAR" FOR A SPECIAL DESIGNATED LIQUOR LICENSE IN AN AREA MEASURING 65' BY 75' AT 5560 SOUTH 48TH STREET ON JUNE 15, 2003 FROM 12:00 A.M. TO 1:00 A.M. - Dean Borgmann, 505 S. 50<sup>th</sup> Street, took oath and came forward to answer any questions.

Glenn Friendt, Council Member, asked about the wet T-shirt & swimsuit contest being held outside and commented that the neighbors disapproved of this event last year.

Mr. Borgmann stated that the wet T-shirt contest will be held inside. There is not a swimsuit contest, just modeling them.

Mr. Friendt commented on how there isn't much to some of the swimsuits and can that be moved inside as well.

Mr. Borgmann said it was not much different than what they wear at the swimming pools.

Ken Svoboda, Council Member, commented that there is a family restaurant across the street and that he feels it is different than a swimming pool.

Dana Roper came forward and said this can be put in the resolution if necessary.

Mr. Borgmann stated they would move the T-shirt contest inside as well as the modeling of swimsuits.

This matter was taken under advisement.

MANAGER APPLICATION OF JOSHUA J. DEERY FOR LONESTAR STEAKHOUSE & SALOON OF NEBRASKA, INC. DBA "LONE STAR STEAKHOUSE & SALOON" AT 200 N. 70TH STREET - Josh Deery, 200 N. 70<sup>th</sup> Street, took oath and came forward to answer any questions.

This matter was taken under advisement.

MANAGER APPLICATION OF GERRI A. ANDERSON FOR FONTENELLE OIL CO. DBA "HOLIDAY STATIONSTORE #117" AT 2200 N. 48TH STREET - Gerri A. Anderson, no address given, took oath and came forward to answer any questions.

Annette McRoy, Council Member, commented on her shirt stating, "I check ID's".

Ms. Anderson said Holiday Stations were one of the hardest stores to buy from.

This matter was taken under advisement.

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF REVENUE BONDS OF THE SANITARY SEWER SYSTEM OF THE CITY OF LINCOLN;

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$55,000,000 AGGREGATE PRINCIPAL AMOUNT OF LINCOLN SANITARY SEWER SYSTEM REVENUE AND REFUNDING BONDS, AND RELATED MATTERS - Don Herz, Finance Director, turned comments over to Lauren Wismer.

Lauren Wismer, Gilmore & Bell, Bond Counsel, stated that this ordinance is the same as the one for the water system.

Mr. Herz said they want to take advantage of the 4% interest rate. It is the lowest since the 50's.

Mr. Friendt commented that there will not be an increase to the users.

Bob Valentine, 2660 Park Avenue, asked why the City always uses Ameritas.

Mr. Herz answered that the City has a contract w/Ameritas and they always go through a competitive bid process for interest rates and underwriting. Discussion followed.

This matter was taken under advisement.

AMENDING CHAPTER 4.62 OF THE LINCOLN MUNICIPAL CODE TO ESTABLISH A POLICE AND FIRE PENSION PLAN BOARD OF TRUSTEES TO PROVIDE OVERSIGHT AND DIRECTION WITH REGARD TO THE INVESTMENT OF THE ASSETS OF THE POLICE AND FIRE PENSION PLANS - Paul Peter, Keating O'Gara Law Firm, 530 S. 13<sup>th</sup> Street, Suite H, came forward as joint legal counsel for the Fire and Police Unions. He explained the migrating of the management administration of the Police and Fire Pension plan over to a true board of trustees. This board will be made up of two elected members of the Police Union, two of the Fire Fighters Association, Finance Director, Personnel Director and three individuals appointed by the Mayor with the advice and consent of those who have already been selected onto the board. Discussion followed.

Mr. Friendt asked what happens if the investments underperform and the City and its taxpayers are to make up the difference?

Mr. Peter says there is an opportunity for Fiduciary Bonds and it broadens the base for those who are making those decisions in the context of the administration and management of the bonds.

Bob Valentine 2660 Park Avenue, came forward to state he doesn't feel comfortable about this change to the relationship that the retirement fund has to the Fire and Police Department especially the Union's activities in it.

John Cripe, Personnel Department, came forward against this ordinance. Discussion followed.

Mike Grieger, 2645 Van Dorn, asked why Jon Cripe wasn't included in the preparation of this ordinance? He suggested that this be tabled until after the election.

Don Taute, Assistant City Attorney, said that Georgia Glass, Personnel Director was directly involved in the process. The pension ordinance defines the Personnel Director as the administrator of the plan. It is his understanding that the drafts were shared with the individuals who are involved in the pension process. Discussion followed.

Georgia Glass, Personnel Director, explained that this initiative was brought forward by Police Union president & and Fire Union president to the Mayor's office and she was asked to attend the meetings and did share with John Cripe and Paul Lutomski what was going on. She proceeded to answer further questions. Further discussion followed with a rebuttal from Paul Peter.

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE STATE FOR FHWA SURFACE TRANSPORTATION PROGRAM FUNDS FOR CONSTRUCTION OF EAST/WEST DUAL-LEFT-TURN LANES AND TRAFFIC SIGNALS AT 27TH AND O STREET - Jon Camp, Council Member, asked what the dual left turn lanes would do to the tightness of the rights-of-way to the adjacent property owners.

Nicole Fleck-Tooze, Planning Department, said there would be no additional permanent right-of-way because there is a bus turnout on the southeast corner that will be removed. There will be a meeting with the property owners.

Mr. Cook asked what will happen to the right turn lanes for east bound.

Ms. Fleck-Tooze stated that nothing will be removed in terms of the existing right turn lanes just an addition of a left turn lane on each.

This matter was taken under advisement.

#### MISCELLANEOUS BUSINESS

Mike Grieger, 2645 Van Dorn, came forward to suggest that if two of the tenants in the proposed Theater Complex be relocated to his

building then maybe he could get help with building a skywalk. He also requested to the Mayor about putting pictures of his nephews serving in Iraq on the wall. The Mayor's office did not return his call.

Bob Valentine, 2660 Park Avenue, came forward stating that he came before the Council two years ago that the Police Retirement Fund was under funded. The new Mayor and City Council will have a big bill on their table to pay. He mentioned about the Ambulance being under the 8 minute response time. He also referred to the impact fee and how the Pine Lake Development annexation has been dragging on which is unfair to the Portsches. He claims the Fair Share Alliance is a scam and is so political. He feels that the impact fee additional tax is very political also. It is said that taxes haven't been raised, but the occupation tax was raised on telephones so taxes have been raised. He stated it is not easy to get people to come to Lincoln under these conditions. He hopes that the City Council will change their tone towards developers and those who want to build new jobs.

Mike Morosin, Past President Malone Neighborhood Assoc., 2055 S St., stated there is a problem with communication from the top on down. Often times when City departments are called they do not return the calls from the public. He stated people every day are doubting this City government is representing the citizens needs.

This matter was taken under advisement.

**\*\* END OF PUBLIC HEARING \*\***

## **COUNCIL ACTION**

### **LIQUOR RESOLUTIONS**

APPLICATION OF B & B-Q INC. DBA "CHEERLEADERS BAR" FOR A SPECIAL DESIGNATED LIQUOR LICENSE IN AN AREA MEASURING 65' BY 75' AT 5560 SOUTH 48TH STREET ON MAY 18, 2003 FROM 12:00 A.M. TO 8:00 P.M. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-82066 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of B&B-Q Inc. d/b/a "Cheerleaders Bar and Grill" for a Special Designated License to cover an area measuring 65 feet by 75 feet in the parking lot at 5560 South 48th Street, Lincoln, Nebraska, on the 18th day of May, 2003, between the hours of 12:00 noon and 8:00 p.m., be denied because the applicant has not shown that the granting of this application: (a) will further the public interest; (b) will be a betterment to the City; (c) will constitute a true increase in service to the public; and (d) will not be detrimental to the public health, safety, and welfare.

BE IT FURTHER RESOLVED the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

APPLICATION OF B & B-Q INC. DBA "CHEERLEADERS BAR" FOR A SPECIAL DESIGNATED LIQUOR LICENSE IN AN AREA MEASURING 65' BY 75' AT 5560 SOUTH 48TH STREET ON JUNE 15, 2003 FROM 12:00 A.M. TO 1:00 A.M. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-82067 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of B&B-Q Inc. d/b/a "Cheerleaders Bar and Grill" for a Special Designated License to cover an area measuring 65 feet by 75 feet in the parking lot at 5560 South 48th Street, Lincoln, Nebraska, on the 15th day of June, 2003, between the hours of 12:00 noon and 1:00 a.m., be denied because the applicant has not shown that the granting of this application: (a) will further the public interest; (b) will be a betterment to the City; (c) will constitute a true increase in service

to the public; and (d) will not be detrimental to the public health, safety, and welfare.

BE IT FURTHER RESOLVED the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF JOSHUA J. DEERY FOR LONESTAR STEAKHOUSE & SALOON OF NEBRASKA, INC. DBA "LONE STAR STEAKHOUSE & SALOON" AT 200 N. 70TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-82068 WHEREAS, Lonestar Steakhouse & Saloon of Nebraska, Inc. dba "Lone Star Steakhouse & Saloon" located at 200 N. 70th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Joshua J. Deery be named manager;

WHEREAS, Joshua J. Deery appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Joshua J. Deery be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF GERRI A. ANDERSON FOR FONTENELLE OIL CO. DBA "HOLIDAY STATIONSTORE #117" AT 2200 N. 48TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption or approval:

A-82069 WHEREAS, Fontenelle Oil Co. dba "Holiday stationstore #117" located at 2200 N. 48th Street, Lincoln, Nebraska has been approved for a Retail Class "B" liquor license, and now requests that Gerri A. Anderson be named manager;

WHEREAS, Gerri A. Anderson appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Gerri A. Anderson be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

#### ORDINANCES - 2ND READING

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF REVENUE BONDS OF THE SANITARY SEWER SYSTEM OF THE CITY OF LINCOLN - CLERK read the following ordinance, introduced by Coleen Seng, authorizing and providing for the issuance of revenue bonds of the sanitary sewer system of the City of Lincoln, the second time.

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$55,000,000 AGGREGATE PRINCIPAL AMOUNT OF LINCOLN SANITARY SEWER SYSTEM REVENUE AND REFUNDING BONDS, AND RELATED MATTERS - CLERK read the following ordinance, introduced by Coleen Seng, authorizing and providing for the issuance of not to exceed \$55,000,000 aggregate principal amount of Lincoln Sanitary Sewer System revenue and refunding bonds, and related matters, the second time.

AMENDING CHAPTER 4.62 OF THE LINCOLN MUNICIPAL CODE TO ESTABLISH A POLICE AND FIRE PENSION PLAN BOARD OF TRUSTEES TO PROVIDE OVERSIGHT AND DIRECTION WITH REGARD TO THE INVESTMENT OF THE ASSETS OF THE POLICE AND FIRE PENSION PLANS - CLERK read the following ordinance, introduced by Coleen Seng, amending Chapter 4.62 of the Lincoln Municipal Code to establish a police and fire pension plan board of trustees to provide oversight and direction with regard to the investment of the assets of the police and fire pension plans, the second time.

RESOLUTIONS

APPROVING A 1 YEAR/200 HOUR LEASE WITH OPTION TO RENEW FOR THREE ONE-YEAR PERIODS BETWEEN THE CITY AND PLATTE VALLEY EQUIPMENT COMPANY TO PROVIDE A MECHANICAL FRONT WHEEL ASSISTED TRACTOR TO APPLY BIOSOLIDS GENERATED AT THE NORTHEAST WASTEWATER TREATMENT FACILITY - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82070 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:  
That the Rental Agreement between the City and Platte Valley Equipment Company which is attached hereto, marked as Attachment "A" and made a part hereof by reference, for the lease of a John Deere 8320 mechanical front wheel assisted tractor for a one year/200 hour period with the option to renew for additional one-year periods not to exceed three years, is hereby accepted and approved.  
BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute said license agreement on behalf of the City.  
Introduced by Ken Svoboda  
Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE STATE FOR FHWA SURFACE TRANSPORTATION PROGRAM FUNDS FOR CONSTRUCTION OF EAST/WEST DUAL-LEFT-TURN LANES AND TRAFFIC SIGNALS AT 27TH AND O STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82071 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:  
That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for Project No. STPP-34-6(134) for the construction of the east/west dual-left-turn lanes and traffic signals at 27th and O Street (City Project No. 546008), in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.  
The City Clerk is directed to return the executed copies of the Agreement to the Department of Public Works, for transmittal and execution by the State Department of Roads.  
Introduced by Ken Svoboda  
Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF APRIL 1-15, 2003 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82072 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:  
That the claims listed in the attached report, marked as Exhibit "A", dated April 16, 2003, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of,

are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

<u>DENIED</u>		<u>ALLOWED OR SETTLED</u>	
Denny Wohlers	\$ 229.55	Ronald Stoehr	\$ 500.00
Lorenzo & Barbara Delgado	270.40	Rosemary Morrison	1,000.00
Farmers Mutual of Nebraska		Terri D. Buchanan	1,343.71
(Randy & Karen Gartner, Insured)	1,572.85	Jon Davis	3,500.00
Insurance Solutions Group/General Casualty	3,190.05		
Barbara J. Saathoff	90.00		

REGULAR MEETING  
APRIL 21, 2003  
PAGE 108

David J. Huls 145.00

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Ken Svoboda

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE UNIVERSITY OF NEBRASKA TO CONTINUE THE CURRENT TRANSPORTATION PROGRAM IN WHICH STARTRAN PROVIDES BUS SERVICE IN CONJUNCTION WITH THE UNL TRANSPORTATION PROGRAM - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82073 WHEREAS, the University of Nebraska Board of Regents and the City of Lincoln, Nebraska, d/b/a StarTran desire to continue the current transportation program for up to another three-years.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Mayor is authorized to enter into the attached Interlocal Agreement between the City and UNL, to remain in effect for one year with two one-year options to renew, beginning August 21, 2003, for the provision of bus service in conjunction with the UNL Transportation Program.

Introduced by Ken Svoboda

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, MAY 12, 2003 AT 1:30 P.M. FOR MAN. APP. OF DAINA D. LAMMLE FOR CORPORATE GOLF MARKETING DBA "BUNKERS SPORTS BAR AND GRILL" AT 8901 AUGUSTA DRIVE - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82074 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., May 12, 2003, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for the Man. App. of Daina D. Lammle for Corporate Golf Marketing dba "Bunkers Sports Bar and Grill at 8901 Augusta Drive.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, MAY 12, 2003 AT 1:30 P.M. FOR APP. OF LORABELLE, INC. DBA "THE GRAPEVINE" FOR AN UPGRADE FROM A CLASS "I" LIQUOR LICENSE TO A CLASS "C" LIQUOR LICENSE AT 2620 STOCKWELL - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82075 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., May 12, 2003, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for the App. of Lorabelle, Inc. dba "The Grapevine" for an upgrade from Class "I" liquor license to a Class "C" liquor license at 2620 Stockwell.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, MAY 12, 2003 AT 1:30 P.M. FOR APP. OF LAMP AND MCTAGGART, INC. DBA "FAT NAPPY'S" FOR AN ADDITION OF AN IRREGULAR SHAPED BEER GARDEN APPROXIMATELY 70' X 125' ON THE SOUTH SIDE OF THE CURRENT PREMISE AT 5100 N. 48<sup>TH</sup> STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82076 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., May 12, 2003, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for the App. of Lamp and McTaggart, Inc. DbA "Fat Nappy's" for an addition of an irregular shaped

beer garden approximately 70' x 125' on the south side of 5100 N. 48<sup>th</sup> Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

APPROVING AN ANNEXATION AGREEMENT BETWEEN PINE LAKE DEVELOPMENT L.L.C., STANLEY L. PORTSCHE AND GRACE A. PORTSCHE, MID-AMERICAN UNION CONFERENCE ASSOCIATION OF SEVENTH DAY ADVENTISTS, AND THE CITY OF LINCOLN OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF APPROXIMATELY 41 ACRES OF PROPERTY GENERALLY LOCATED WEST OF 84TH STREET AND NORTH OF HIGHWAY 2. (In connection w/03-21, 03-22, 03R-26, 03R-27) (2/03/03 - P.H. con't w/Action to 2/10/03) (2/10/03 - Public Hearing & Action Delayed 2 wks. to 2/24/03) (2/24/03 - Delay Action 2 weeks to 3/10/03) (3/17/03 - Lost as amended, 3-4; Cook, McRoy, Seng, Werner dissenting) (3/24/03 - To have Public Hearing & Action on 4/14/03) (4/14/03 - Tie Vote 3-3; Werner Absent, carried over to 4/21/03 for Action Only)- PRIOR to reading:

WERNER Moved to amend Bill No. 03R-25 (Amendment #7) by substituting the attached (Substitute #2)Pine Lake Plaza Conditional Annexation and Zoning Agreement for the Pine Lake Plaza Conditional Annexation and Zoning Agreement attached to Bill No. 03R-25 marked as Attachment "A".

Seconded by Seng & carried by the following vote: AYES: Cook, McRoy, Seng, Werner; NAYS: Camp, Friendt, Svoboda.

WERNER Moved to amend Bill No. 03R-25 (Amendment #6) on line 8, after the word "approved" insert the following phrase: "provided that Owners execute the Annexation Agreement and return it to the City Clerk within thirty days from the date this resolution is adopted". 2. Between lines 8 and 9, insert "BE IT FURTHER RESOLVED that the City Clerk is directed (1) upon receipt of the Annexation Agreement to notify the City Council that the Annexation Agreement has been fully executed by the Owners: or (2) upon expirations of the thirty-day period, to notify the City Council that the time period for the Owners to execute the Agreement has expired and that an executed Annexation Agreement has not been returned." 3. On line 9, after the word "that" insert "after the Owners have executed the Annexation Agreement".

Seconded by Seng & carried by the following vote: AYES: Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: Camp.

WERNER Moved to amend Bill No. 03R-25 on page 5, paragraph 7 delete the word "without" and insert with and after the word "interest" insert at the rate earned by the City.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

A-82079 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Pine Lake Plaza Conditional Annexation and Zoning Agreement (Annexation Agreement), which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Stanley L. Portsche and Grace A. Portsche, and Mid-American Union Conference Association of Seventh Day Adventists (Owner), outlining certain conditions and understandings between the City and said Owner relating to the annexation of approximately 41 acres of property generally located west of 84th Street and north of Highway 2 is approved provided that Owners execute the Annexation Agreement and return it to the City Clerk within thirty days from the date this resolution is adopted.

"BE IT FURTHER RESOLVED that the City Clerk is directed (1) upon receipt of the Annexation Agreement to notify the City Council that the Annexation Agreement has been fully executed by the Owners: or (2) upon expiration of the thirty-day period, to notify the City Council that the time period for the Owners to execute the Agreement has expired and that an executed Annexation Agreement has not been returned."

BE IT FURTHER RESOLVED that after the Owners have executed the Annexation Agreement the Mayor is authorized to execute the Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copy of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Annexation Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Owner.

Introduced by Ken Svoboda  
Seconded by Seng & carried by the following vote: AYES: Cook,  
Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

**PETITIONS & COMMUNICATIONS**

INFORMAL REQUEST FOR ALLEY PAVING BETWEEN 27<sup>TH</sup> AND 28<sup>TH</sup> STREET, FAIR TO POTTER STREET SIGNED BY JERRY L & ANTONETTE J. THOMAS - CLERK presented said petition which was referred to the Public Works Dept.

**REPORTS OF CITY OFFICERS**

CLERK'S LETTER & MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED BY COUNCIL ON APRIL 14, 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk.

INVESTMENT OF FUNDS FROM APRIL 14 THROUGH APRIL 18, 2003 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82077 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of attachments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council.

Introduced by Ken Svoboda  
Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

REPORT OF CITY TREASURER OF TELECOMMUNICATIONS OCCUPATION TAX FOR THE MONTH OF JANUARY - MARCH, 2003: MATRIX, CLARICOM NETWORKS, ALIANT, BUSINESS TELECOM; NEXTEL WEST, NOSVA, GLOBALCOM, VARTEC, I-LINK, ASSOCIATION ADMINISTRATORS, BIG PLANET, AFFINITY NETWORK, NPCR DBA NEXTEL; MARCH, 2003: USA PAGING, GUARANTEED PHONE SERVICE, AMERICVISION, NOS COMM., TOUCH 1, ATT WIRELESS PCS LLC, TELECORP, TRI-M, GLYPHICS, LIGHTYEAR, ZONE TELECOM., LDMI, GTC TELECOM., COMDATA, WORLDXCHANGE - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT FROM CITY TREASURER OF FRANCHISE TAX FROM AQUILA FOR THE MONTH OF MARCH, 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk.

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNINGS ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED MARCH 31, 2003 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82078 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended March 31, 2003, \$172,675.93 was earned from the investments of "IDLE FUNDS". The same is hereby distributed to the various funds on a pro-rate basis using the balance of each fund and allocating a portion of the interest on the ratio that such balance bears to the total of all fund balances.

Introduced by Ken Svoboda  
Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

**ORDINANCES - 1<sup>ST</sup> READING**

AMENDING CHAPTER 2.76 OF THE LINCOLN MUNICIPAL CODE RELATING TO PREGNANCY LEAVE AND REPRIMAND TO BE CONSISTENT WITH FEDERAL REGULATIONS AND TO INCLUDE EMPLOYEES NOT COVERED BY A UNION AGREEMENT - CLERK read an ordinance, introduced by Ken Svoboda, amending Chapter 2.76 of the Lincoln Municipal Code relating to the Personnel System by amending Section 2.76.410 to bring the City's pregnancy leave provisions into compliance with federal regulations; amending Section 2.76.450 to include employees not covered by a Union agreement in the pay ranges subject to the City's reprimand provisions; and repealing Sections 2.76.410 and 2.76.450 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 3402 - APPLICATION OF DR. DALE CAPEK FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO O-2 SUBURBAN OFFICE DISTRICT ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH 48TH AND F STREETS - CLERK read an ordinance, introduced by Ken Svoboda, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

DECLARING APPROXIMATELY 1.2 ACRES OF PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF SUPERIOR STREET AND LEWIS AVENUE AS SURPLUS AND AUTHORIZING THE SALE THEREOF - CLERK read an ordinance, introduced by Ken Svoboda, declaring approximately 1.2 acres of City-owned property generally located at the southwest corner of Superior Street and Lewis Avenue as surplus and authorizing the sale thereof to Lincoln Public Schools, the first time.

CHANGE OF ZONE 3396 - APPLICATION OF BOYCE CONSTRUCTION FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT NORTH 70TH STREET NORTH OF ADAMS STREET. (IN CONNECTION W/03R-107) - CLERK read an ordinance, introduced by Ken Svoboda, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROXIMATELY 142 ACRES OF PROPERTY GENERALLY LOCATED NORTHEAST OF N.W. 48TH STREET AND W. HOLDREGE STREET. (IN CONNECTION W/03-71, 03R-108, 03R-109, 03R-110) - CLERK read an ordinance, introduced by Ken Svoboda, amending Section 2 of the Ordinance No. 8730 passed May 17, 1965, as last amended by Section 1 of Ordinance No. 18014 passed June 24, 2002, prescribing and defining the corporate limits of the City of Lincoln and repealing said Section 2 of Ordinance No. 8730 passed May 17, 1965, as last amended by Section 1 of Ordinance No. 18014 passed June 24, 2002, as hitherto existing, the first time.

CHANGE OF ZONE 3390 - APPLICATION OF HUBERT H. HALL FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED NORTHEAST OF N.W. 48TH STREET AND W. HOLDREGE STREET. (IN CONNECTION W/03-70, 03R-108, 03R-109, 03R-110) - CLERK read an ordinance, introduced by Ken Svoboda, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

#### ORDINANCES - 3RD READING

VACATING R STREET FROM THE EAST LINE OF 9TH STREET TO THE WEST LINE OF 10<sup>TH</sup> STREET - CLERK read the following ordinance, introduced by Annette McRoy, vacating R Street from the east line of 9<sup>th</sup> Street to the west line of 10<sup>th</sup> Street, the third time.

FRIENDT Moved to pass the ordinance as read.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18166**, is recorded in Ordinance Book 25, Page

DECLARING APPROXIMATELY 0.3 ACRES OF THE HIGHLANDS SOUTH PARK PROPERTY LOCATED AT W. KATLEMAN DRIVE AND N.W. FAIRWAY DRIVE, AS SURPLUS AND AUTHORIZING THE SALE THEREOF - CLERK read the following ordinance, introduced by Annette McRoy, declaring approximately 0.3 acres of the Highlands South Park property located at W. Katleman Drive and N.W. Fairway Drive, as

REGULAR MEETING  
APRIL 21, 2003  
PAGE 112

surplus and authorizing the sale thereof, the third time.

MCROY Moved to pass the ordinance as read.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18167**, is recorded in Ordinance Book 25, Page

AMENDING CHAPTER 12.20 OF THE LINCOLN MUNICIPAL CODE TO EXPAND THE TYPES OF LANDSCAPE PLANTINGS ALLOWED WITHIN THE SIDEWALK SPACE IN PUBLIC RIGHT-OF-WAY AREAS - PRIOR to reading:

CAMP Moved to amend Bill No. 03-61 on page 3, line 11 after the word "debris." insert the following language: weed control in accordance with Chapter 8.46.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

MCROY Moved to amend Bill No. 03-61 on page 2, line 9, after the word "grasses," add the words: "vegetable gardens.". Then on page 2, lines 9 and 10, delete the following language: ~~"Vegetable gardens, vegetable plants or fruit plants shall not be planted or maintained within the sidewalk space".~~

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

CLERK Read the following ordinance, introduced by Annette McRoy, amending Chapter 12.20 of the Lincoln Municipal Code to expand the types of landscape plantings allowed within the sidewalk space in public right-of way areas, the third time.

MCROY Moved to pass the ordinance as read.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18168**, is recorded in Ordinance Book 25, Page

AMENDING CHAPTER 14.80 OF THE LINCOLN MUNICIPAL CODE RELATING TO SIDEWALK CONSTRUCTION BY AMENDING SECTION 14.80.010 TO DESIGNATE PERMITTED USES OF THE SPACE BETWEEN THE LOT LINE AND CURB (SIDEWALK SPACE) AND ADDING A NEW SECTION NUMBERED 14.80.015 TO PROVIDE FOR THE USE OF DECORATIVE GRAVEL OR ROCK MULCH IN THE SIDEWALK SPACE - PRIOR to reading:

SENG Moved to continue public hearing and delay action for two weeks to 5/12/03.

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

CLERK Read the following ordinance, introduced by Annette McRoy, amending Chapter 14.80 of the Lincoln Municipal Code relating to sidewalk construction by amending Section 14.80.010 to designate permitted uses of the space between the lot line and curb (sidewalk space) and adding a new section numbered 14.80.015 to provide for the use of decorative gravel or rock mulch in the sidewalk space, the third time.

APPROVING A MULTI-YEAR CONTRACT BETWEEN THE CITY AND THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE PLANNING, CONSULTING, ENGINEERING, DESIGN, AND CONSTRUCTION ACTIVITIES AND COSTS ASSOCIATED WITH THE WATER QUALITY REHABILITATION PROJECT AT HOLMES LAKE - CLERK read the following ordinance, introduced by Annette McRoy, approving a multi-yea contract between the City and the Nebraska Department of Environmental Quality

for the planning, consulting, engineering, design and construction activities and costs associated with the water quality rehabilitation project at Holmes Lake, the third time.

McRoy Moved to pass the ordinance as read.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18169**, is recorded in Ordinance Book 25, Page

AMENDING VARIOUS CHAPTERS OF THE LINCOLN MUNICIPAL CODE TO CHANGE REFERENCES TO "FIRE DEPARTMENT" TO "FIRE AND RESCUE DEPARTMENT" - CLERK read the following ordinance, introduced by Annette McRoy, amending various chapters of the Lincoln Municipal Code to change references to "Fire Department" to "Fire and Rescue Department", the third time.

MCROY Moved to pass the ordinance as read.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18170** is recorded in Ordinance Book 25, Page

MISCELLANEOUS BUSINESS

PENDING -

CAMP            Moved to extend the Pending List to May 5, 2003.  
                  Seconded by Seng & carried by the following vote: AYES: Camp,  
                  Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP            Moved to approve the resolutions to have Public Hearing on  
                  May 5, 2003.  
                  Seconded by Seng & carried by the following vote: AYES: Camp,  
                  Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

ADJOURNMENT

4:35 P.M.

CAMP            Moved to adjourn the City Council meeting of April 28, 2003.  
                  Seconded by Seng & carried by the following vote: AYES: Camp,  
                  Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.  
                  So ordered.

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Joan Ross, City Clerk

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Judy Roscoe, Senior Office Assistant

REGULAR MEETING  
APRIL 21, 2003  
PAGE 114